



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

*Overruled by
m-277*

February 17, 1958

Honorable John R. Coffee
County Attorney
Howard County
Big Spring, Texas

Opinion No. WW-370

Re: Whether the Commissioners' Court has the authority to contract with a person or firm to maintain the County Courthouse.

Dear Mr. Coffee:

You have requested our opinion as to whether the Commissioners' Court has the authority to contract with a person or a firm for the maintenance of the Howard County Courthouse. You state that such firm or person would hire and fire their own employees for the maintenance and repair of the Howard County Courthouse, and the contracting person or firm alone would be responsible to the Commissioners' Court.

Article 2351, Vernon's Civil Statutes, provides in part as follows:

"Each commissioners court shall:

"7. Provide and keep in repair courthouses, jails and all necessary public buildings."

In construing the powers and duties of the Commissioners' Court, the courts of this State have said:

"The Constitution does not confer on the commissioners courts 'general authority over the county business' and such courts can exercise only such powers as the Constitution itself or the statutes have 'specifically conferred upon them.' . . . While the commissioners courts have a broad discretion in exercising powers expressly conferred on them, nevertheless the legal basis for any action by any such court must be ultimately found in the Constitution or the statutes." Canales v. Laughlin, 147 Tex. 169, 214 S.W.2d

1741.

Honorable John R. Coffee, Page 2 (WW-370)

451 (1948).

Article 2351c, Vernon's Civil Statutes, provides that in counties having a population of more than 500,000 the Commissioners' Court may designate a building superintendent who shall appoint all necessary employees subject to confirmation by the Commissioners' Court. The Article further provides that the Court shall have the right to discharge any such employees at any time for cause. However, this Article is not applicable to your situation since the County does not have a population of over 500,000, but even this Article provides that the Commissioners' Court shall have the ultimate right to discharge any employee for cause. This Article by implication provides that there can be no delegation of the right to hire and fire janitorial employees.

It has been held in Attorney General's Opinions No. 0-2444 (1940) and No. 0-6085 (1944) that the Commissioners' Court has the authority to employ and discharge Courthouse janitors, elevator operators and similar employees.

Therefore, in view of the foregoing, we are of the opinion that the Commissioners' Court has no authority to delegate the maintenance of the County Courthouse to any individual or firm.

SUMMARY

The Commissioners' Court
has no authority to delegate
the maintenance of the County
Courthouse to any individual

Honorable John R. Coffee, Page 3 (WW-370)

or firm.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
Linward Shivers
Assistant

LS: pf:wam

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

Cecil C. Rotsch

J. Mark McLaughlin

J. Milton Richardson

John H. Minton, Jr.

REVIEWED FOR THE ATTORNEY GENERAL

BY: W. V. Geppert